

**AGENDA  
ZONING BOARD OF ADJUSTMENT  
APRIL 6, 2020**

**AGENDA ITEM #4A  
PUBLIC HEARING-New**

**JOSHUA RUDNER, 15 SHAW  
STREET (Tax Map 92, Lot 153),  
zoned R-2  
ZB2020-09-SE**



## CITY OF LEBANON ~ PLANNING & DEVELOPMENT

### ZONING BOARD OF ADJUSTMENT

April 6, 2020 Meeting

Staff Memorandum – #ZB2020-09-SE

#### **APPLICATION INFORMATION**

**Agenda Item:** 4.A

**Application Type:** Special Exception per §703.1 to permit the expansion of a non-conforming structure

**Location:**

15 Shaw St (Tax Map 92, Lot 153)

**Applicant/Property Owner:**

Joshua Rudner

**Zoning District:**

Residential Two (R-2) District

**Property Size:**

+/-0.36 acres (+/-15,6892 sq. ft.)  
(conforming to the minimum required 10,000 sq. ft. lot size required for Class 1 lots in the R-2 District per §309.3)

**Existing Improvements and Use:**

+/-1,762 sq. ft. (finished) two-story one-family dwelling constructed in 1860, per the City Assessor's records (a conforming use in the R-2 District)

**Proposed Improvements and Use:**

Reconstruct and expand existing non-conforming front porch; existing one-family use will continue

**Overlay Districts:** none

**Previous ZBA Action (since 1995):**

none

**Other Approvals Required:**

- Building Permit

**Attachments:**

Application (5 pages total)

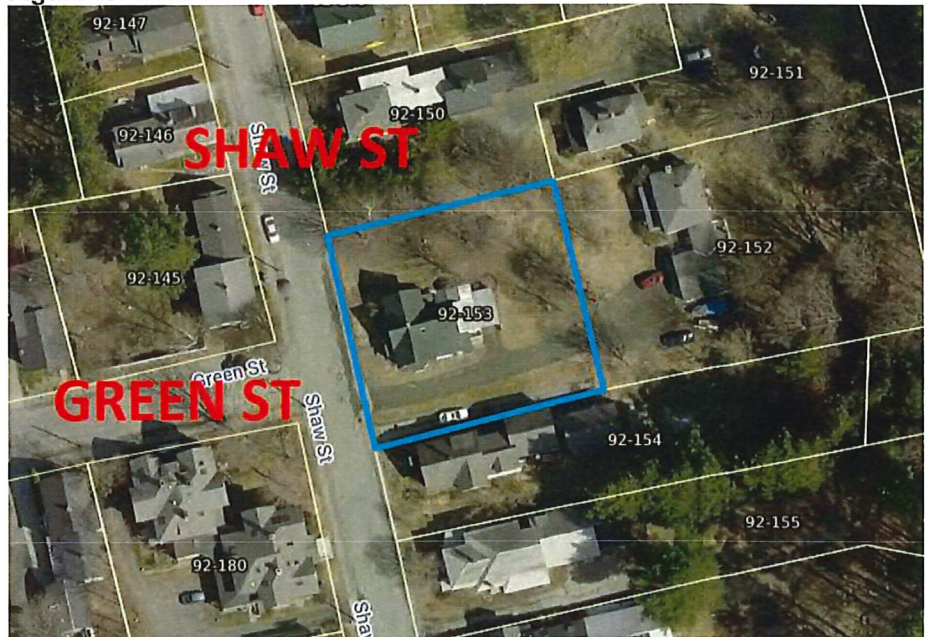
#### **HEARING NOTICE**

JOSHUA RUDNER, 15 SHAW STREET (Tax Map 92, Lot 153), zoned R-2: Applicant requests a Special Exception pursuant to Article VII, Section 703.1 of the Zoning Ordinance to reconstruct and expand an existing front porch that is non-conforming to the 20 ft. minimum front yard setback. #ZB2020-09-SE

#### **BACKGROUND**

The subject property is improved with a one-family dwelling constructed in 1860. As shown on the attached plot plan provided by the applicant, the home is non-conforming to the minimum front yard of 20 ft. required for Class 1 lots in the R-2 District.

Figure 1. Aerial View of 15 Shaw Street.



#### **PROPOSAL**

As shown on the attached plot plan, the applicant proposes to reconstruct the existing non-conforming 22 ft. x 6 ft. front porch and to expand it to a width of 33 ft. along the front façade of the home. The expanded porch will not be located any closer to the front lot line than the existing porch.



**STAFF MEMORANDUM**

#ZB2020-09-SE

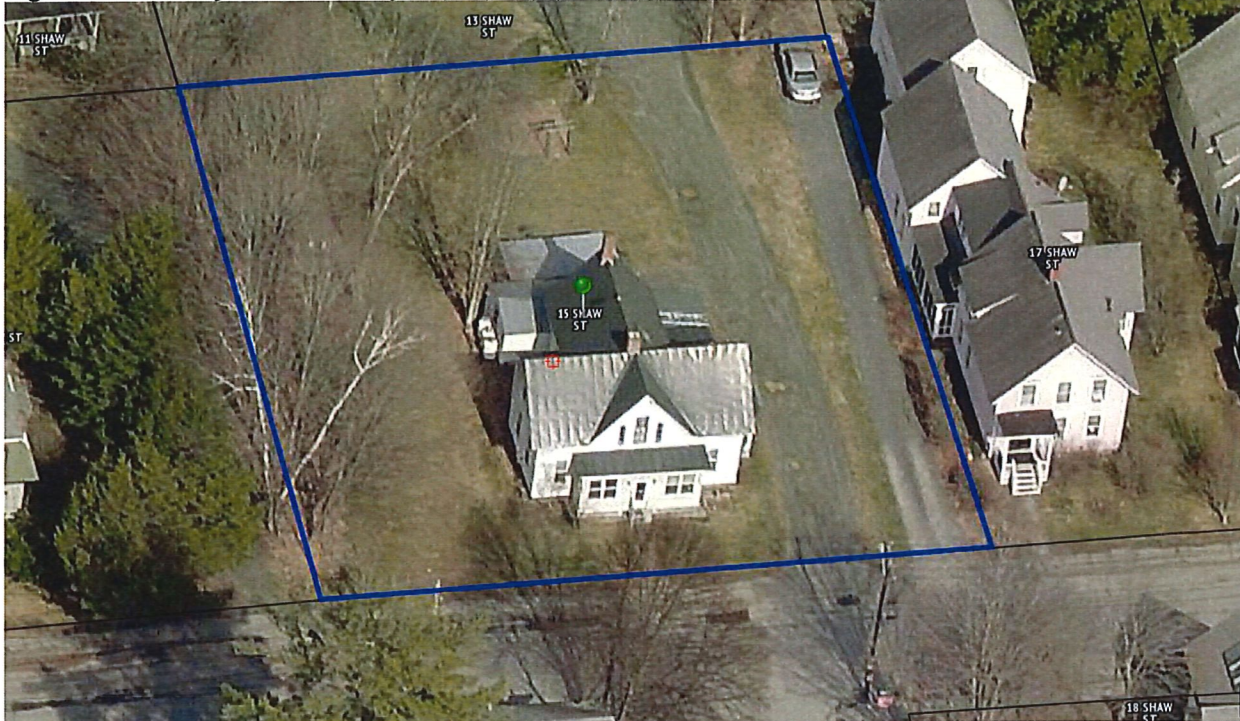
15 Shaw St (Tax Map 92, Lot 153)

April 6, 2020 ZBA Meeting

Page 2 of 3

(Note that there are other improvements proposed by the applicant as part of the renovation of the subject property, but these do not require any Zoning Board approval).

**Figure 2. Bird's Eye View of subject property (looking east).**



©2018 Eagleview (image taken 5/1/2018)

**ORDINANCE REQUIREMENTS**

Class 1 lots (lots that are served by municipal sewer and water) in the R-2 District must maintain a minimum front yard (i.e. a space unobstructed by buildings and structures) of 20 ft. See §309.3 of the Zoning Ordinance. **§703.1** of the Zoning Ordinance allows the expansion of “any increase in the **footprint** and/or volume of the non-conforming part of the building or structure,” by Special Exception from the Zoning Board of Adjustment.

**703.1 Expansion.**

In order to grant a Special Exception for the proposed expansion, the Board must make each of the following findings per §703.1.A:

1. The reasonable use of abutting properties shall not be adversely affected by the proposed expansion.
2. The proposed expansion shall not render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently nonconforming cannot be made more non-conforming in the absence of a variance.

*Note: §703.1.A.2 allows an expansion that is equally non-conforming or less non-conforming, but prohibits an expansion that would be more non-conforming. Here, the proposed expansion will be located no closer to the front lot line than the existing front porch and, therefore, will not “render the lot size proportionately less adequate”.*

*By contrast, if the expansion were proposed to be located closer to the front lot line than the existing porch, the applicant would be unable to demonstrate compliance with §703.1.A.2 and, instead, would require a Variance from §309.3 to permit the expansion to encroach further into the minimum required front yard.*

3. These special exception standards shall apply in addition to the standards in Section 801.3 of the Zoning Ordinance.

**801.3 Special Exceptions.**

Per §703.1.A.3 of the Zoning Ordinance, in order to grant a Special Exception for an expansion of a non-conforming structure, the Board must also determine that the proposal meets the general Special Exception criteria, set forth in §801.3 as follows:

- A. The Special Exception is specifically authorized by a provision of this Ordinance.  
*Note: The Special Exception is authorized by §703.1.A of the Zoning Ordinance.*
- B. All special conditions required of the special exception have been met.  
*Note: The special conditions for an expansion of a non-conforming buildings are those set forth above in §703.1.A of the Zoning Ordinance.*
- C. There are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy.  
*Note: Staff is unaware of any Zoning Ordinance violations on the property.*
- D. The character of the area shall not be adversely affected.
- E. No hazard or nuisance will be created.
- F. The capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
- G. Granting the special exception will not result in undue municipal expense.
- H. The proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.
- I. The general welfare of the City will be protected.

The applicant has submitted testimony addressing the §703.1.A and §801.3 criteria in an application received by the Planning Department on March 19, 2020 (see attached).

**STAFF COMMENTS**

Absent abutter testimony to the contrary, the proposed expansion does not appear to be inconsistent with any of the applicable criteria set forth in §703.1.A and §801.3.

**Attachment**

cc: Josh Rudner, property owner (via e-mail)  
High Meadow Builders, agent (via e-mail)  
File



**CITY OF LEBANON  
APPLICATION FOR**

<b>SPECIAL EXCEPTION</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>SITE PLAN REVIEW</b>
<b>VARIANCE</b>	<input type="checkbox"/>	<input type="checkbox"/>	<b>SUBDIVISION</b>
<b>MOTION FOR REHEARING</b>	<input type="checkbox"/>	<input type="checkbox"/>	<b>LOT LINE ADJUSTMENT</b>
<b>APPEAL OF AN ADMIN. DECISION</b>	<input type="checkbox"/>	<input type="checkbox"/>	<b>CONDITIONAL USE PERMIT</b>

☐ OTHER \_\_\_\_\_

**PROPERTY OWNER (APPLICANT):**

NAME: Josh Rudner TEL.#: 207-522-7796

MAILING ADDRESS: 2 King Rd Etna NH 03750

E-MAIL ADDRESS: JRRUDNER@Gmail.com

**CO-APPLICANT, AGENT, OR LESSEE:**

NAME: High Meadow Builders TEL.#: 603-448-5626

MAILING ADDRESS: 160 Mechanic St. Lebanon NH.

E-MAIL ADDRESS: Bob@highmb.com

**PROJECT LOCATION:**

TAX MAP #: 92 LOT#: 153 PLOT #: — ZONE: R2

STREET ADDRESS OF PROJECT: 15 Shaw St

IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☐ NO  
**FLOOD PLAIN** ☐ YES ☒ NO

**SCOPE OF PROJECT:**

Rebuilding Porch on front of house to come even with corners  
and continue down left side to corner. We will stay same distance off  
sidewalk as it is now.

**TYPE OF OCCUPANCY:**

EXISTING ☐ VACANT ☒ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL  
PROPOSED ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL  
IF USE IS **COMMERCIAL** OR **INDUSTRIAL**, PLEASE NOTE **SPECIFIC**  
USE: \_\_\_\_\_

**SIGNATURE BLOCK:**

**FOR PLANNING BOARD APPLICATIONS ONLY:** I, the undersigned, hereby submit this application on the date noted below with the knowledge and understanding that the Planning Board shall determine if the submitted application is complete according to its regulations at its next regularly scheduled meeting on \_\_\_\_\_, 20\_\_\_\_, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER: [Signature] DATE: 3/16/20

**NOTE: IF AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW:** I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

PROPERTY OWNER: [Signature] DATE: 3/16/20

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
3/19/20	92/153	2B2020-	\$233.60	3/19/20	17590

09-SE



**CITY OF LEBANON, NEW HAMPSHIRE  
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION**

One cover application, one abutters list, a filing fee and ten copies of the site plan must accompany this support statement.

I (we) hereby request a Special Exception as provided for in Article(s) \_\_\_\_\_, Section(s) \_\_\_\_\_, of the Lebanon Zoning Ordinance.

**PROJECT DESCRIPTION** (Please provide your plans for the property with as much detail as possible with respect to your proposed. You can respond in the space provided, or attach a separate statement.)

REBUILDING FRONT PORCH TO CORNER EVEN WITH CORNER  
AND CONTINUE DOWN LEFT SIDE TO THE CORNER. PORCH  
WILL BE THE SAME DISTANCE OFF THE SIDEWALK AS THE OLD  
PORCH IS PRESENTLY

**In order to grant a Special Exception, the Zoning Board of Adjustment must make affirmative findings of certain conditions. Those conditions are listed below:**

(You can respond in the space provided, or attach a separate statement. Please be prepared to address the conditions with the Board during your public hearing. You must show that you have met all the conditions.)

**SECTION 801.3 Special Exceptions** - To hear and decide special exceptions to the terms of this ordinance upon matters which the Board is required to pass under this ordinance. In passing upon any application for a special exception, the Board shall make each of the following findings:

- A. That the special exception is specifically authorized by a provision of this ordinance:

THAT THE CHARACTER OF THE AREA WILL NOT BE ADVERSELY  
AFFECTED AS THE PORCH WILL BE THE SAME HISTORICAL DISTANCE  
FROM THE SIDEWALK.

- B. That all special conditions required of the special exception have been met:

YES, ALL SPECIAL CONDITIONS OF THE SPECIAL EXCEPTION  
HAVE BEEN MET.

- C. That there are no existing violations of this ordinance on the property that the granting of this special exception would not remedy:

THERE ARE NO EXISTING VIOLATIONS OF THIS ORDINANCE  
ON THE PROPERTY AND GRANTING OF THIS SPECIAL EXCEPTION  
WOULD NOT REMEDY.

CITY OF LEBANON, NEW HAMPSHIRE  
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION  
Page 2

- D. That the character of the area shall not be adversely affected:

It will be in keeping with of historical distance  
to the sidewalk

- E. That no hazard or nuisance will be created:

It will keep the present distance from the side  
walk so will not change

- F. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted:

It will not affect adversely the capacity of the  
existing or planned community facilities or services

- G. That granting the special exception will not result in undue municipal expense:

It will not result in a change in municipal  
expense

- H. That the proposed special exception will be developed in a manner compatible with the spirit and intent of the ordinance:

It will be in keeping with the historic neighborhood

- I. That the general welfare of the City will be protected:

It will be in keeping with the historic neighborhood

**Please Note:**

Pursuant to Section 802.4B, "Special Conditions", the Board may attach whatever conditions it deems necessary in order to assure compliance with the purposes of this ordinance.

A special exception shall expire if: (1) the use is not in place within two years of the date of issuance of a zoning permit or approval by the Zoning Board of Adjustment for a special exception or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a special exception must be completed.



## 15 Shaw Street, Lebanon, NH



## Property Information

Property ID 92-153  
Location 15 SHAW ST  
Owner RUDNER, JOSHUA &

MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT

City of Lebanon, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 10/23/2018  
Data updated 11/18/2018



15 Shaw St. Lebanon NH.

1/4" = 1'

MAR 19 2020

